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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IN RE INCRETIN-BASED
THERAPIES PRODUCTS
LIABILITY LITIGATION

As to All Related and Member Cases

Case No. 13-md-2452-AJB (MDD)

MDL 2452

**DECLARATION OF AMY J.
LAURENDEAU IN SUPPORT OF
AMYLIN PHARMACEUTICALS,
LLC'S BILL OF COSTS**

Date: January 4, 2016

Time: 10:00 a.m.

Judge: Hon. Anthony J. Battaglia

1 I am an attorney duly licensed to practice in the State of California, and I am
2 a partner at the law firm of O'Melveny & Myers, LLP, counsel of record for
3 Defendant Amylin Pharmaceuticals, LLC ("Amylin") in this litigation. I am
4 making this declaration in support of Amylin's Bill of Costs to recover expenses
5 associated with this litigation pursuant to Rule 54 of the Federal Rules of Civil
6 Procedure and Southern District of California Local Rule 54.1. I have personal
7 knowledge of the facts set forth herein and, if called to testify, I could and would
8 testify competently hereto. I further certify that the costs listed in the Bill of Costs,
9 detailed in the Supporting Schedules filed herewith, and further detailed in the
10 invoices attached as exhibits to this declaration are allowable under federal law, are
11 correctly stated, and were necessarily incurred in this litigation. *See* L.R. 54.1.

12 **Deposition Costs - 28 U.S.C. § 1920(2)**

13 Attached hereto as **Exhibits 1-55** are true and correct copies of paid invoices
14 that Amylin incurred in order to obtain the transcript, exhibits, and one copy of the
15 depositions of 55 individuals. *See* 28 U.S.C. 1920(2); L.R. 54.1(b)(3); *see also*
16 *Ancora Techs., Inc. v. Apple, Inc.*, 2013 WL 4532927, at *6 (N.D. Cal. Aug. 26,
17 2013) (because the rules allow for the recovery of costs of "two versions of the
18 deposition transcript. . . the Court finds no reason to deny costs which conform to
19 this rule, even if the second copy is a rough ASCII or a video."). Not all court
20 reporter companies offer the same services. Therefore, in terms of the cost of the
21 additional copy of the transcript that is recoverable, this charge may be reflected in
22 the attached invoices as an ASCII rough or diskette, a condensed manuscript, or an
23 LEF file. Moreover, certain vendors charge additional fees for transcription of
24 expert testimony, or for transcriptions that are taken after normal business hours.
25 These discrepancies do not affect the ability of the Clerk to tax as costs the items
26 set forth in the Supporting Schedules.

27 The line items in the attached invoices and set forth Schedule A are described
28 below:

1. [Name of Deponent] Deposition, taken [date].

(Exhibits 1-55)

This line item describes the cost of obtaining the deposition transcript.

2. Exhibits

(Exhibits 1, 3, 5-6, 8-10, 14-24, 26-38, 46-48, 52-54)

This line item describes the cost of obtaining a copy of the exhibits to the deposition.

3. Exhibit Bundle

(Exhibits 39, 41-42, 44-45, 50-51)

This line item also describes the cost of obtaining a copy of the exhibits to the deposition.

4. Exhibits Scanned, Exhibits Scanned to Disk, Color Exhibits Scanned

(Exhibits 38, 46)

These line items also describe the cost of obtaining a copy of the exhibits to the deposition.

5. Rough Draft ASCII

(Exhibits 1, 3, 5-6, 11-15, 17, 19, 21, 25, 36-37, 39-43, 45-53, 55).

This line item describes the cost of obtaining an additional copy of the deposition on ASCII diskettes.

6. Condensed Transcript

(Exhibits 8-10, 16, 38)

This line item describes the cost of obtaining an additional copy of the deposition in a condensed transcript.

7. LEF (Electronic) File

(Exhibits 7, 13)

This line item describes the cost of obtaining an additional copy of the deposition in electronic form.

1 8. Expert Testimony

2 (Exhibits 3, 5, 10)

3 This line item describes an additional fee assessed by certain vendors
4 for expert testimony transcription.

5 9. Appearance Fee

6 (Exhibit 13)

7 This line item reflects the fee for the court reporter's appearance at the
8 deposition.

9 10. Evening Pages or Evening Attendance Fee

10 (Exhibits 5-6, 14, 20-24, 28, 33-37, 41)

11 These line items describe an additional fee assessed by certain vendors
12 for transcriptions that are taken after normal business hours.

13 These costs associated with depositions were necessarily obtained in this litigation
14 and are allowable pursuant to 28. U.S.C. § 1920(2) and the law of this Circuit.

15 **Discovery Costs - 28 U.S.C. § 1920(4)**

16 Attached hereto as **Exhibits 56-61** are true and correct copies of paid
17 invoices that Amylin incurred in order create copies of documents "to be produced
18 pursuant to Rule 34 or other discovery rules." *In re Online DVD-Rental Antitrust*
19 *Litig.*, 779 F.3d 914, 927-28 (9th Cir. 2015) ("To the extent that a party is obligated
20 to produce (or obligated to accept) electronic documents in a particular format or
21 with particular characteristics intact (such as metadata, color, motion, or
22 manipulability), the costs to make duplicates in such a format or with such
23 characteristics preserved are recoverable as 'the costs of making copies ...
24 necessarily obtained for use in the case.'") (quoting *CBT Flint Partners, LLC v.*
25 *Return Path, Inc.*, 737 F.3d 1320, 1328 (Fed. Cir. 2013)); *see also* 28 U.S.C.
26 1920(4); L.R. 54.1(b)(6).

27 The line items in the attached invoices and set forth in Schedule B are
28 described below:

1 1. Processing Inbound

2 (Exhibits 56-61)

3 This line item describes the costs charged by Amylin's discovery
4 vendor for the copying of incoming data from Amylin into a discovery-
5 appropriate format. The number of gigabytes copied and the cost per
6 gigabyte is detailed in the accompanying exhibits.

7 2. Computer Hard Drives

8 (Exhibits 56-58, 60-61)

9 This line item describes the cost of hard drives, which were used to
10 transfer the copies of discovery productions to Plaintiffs' and co-defendants
11 per the ESI agreement in this matter.

12 3. Postage/FedEx/Courier

13 (Exhibits 56-58, 61)

14 This line item describes the cost of sending the encrypted hard drives
15 containing copies of Amylin's discovery productions to parties in this matter
16 (which are listed in this line item).

17 These costs associated with discovery were necessarily incurred in this litigation for
18 the purposes stated herein and are allowable pursuant to 28. U.S.C. § 1920(4) and
19 the law of this Circuit.

20 **Pre-Removal Costs - L.R. 54.1(b)(10)**

21 Attached hereto as **Exhibits 62-64** are true and correct copies of paid
22 invoices that Amylin incurred in state court for filing answers before removing
23 those cases into the MDL proceedings. *See* L.R. 54.1(b)(10) ("In a case removed
24 from the state court, costs incurred in the state court prior to removal must be
25 recovered by the prevailing party in federal court to the extent they are covered in
26 this rule or otherwise permitted by state law."). These costs are permitted to be
27 recovered under state law. *See* Cal. Civ. Proc. Code § 1033.5(a)(1) (allowing
28 recovery of "[f]iling, motion, and jury fees.").

1 The line items in the attached invoices and set forth in Schedule C are
2 described below:

3 1. Court Filing Fee For Answer in [Case Name]

4 (Exhibits 62-64)

5 This line item describes the fee paid by Amylin to file an answer in
6 California state court.

7 2. E-Filing Service Fee

8 (Exhibits 62-64)

9 This line item describes the fee paid by Amylin to e-file an answer in
10 California state court.

11 3. E-Service Fee

12 (Exhibits 63-64)

13 This line item describes the fee paid by Amylin to electronically serve
14 an answer in California state Court.

15
16 I declare under penalty of perjury under the laws of the United States that the
17 foregoing is true and correct. Executed on December 14, 2015 at Newport Beach,
18 California.

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20 /s/ Amy J. Laurendeau

21 Amy J. Laurendeau
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